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TAGS: PREL PGOV ECON EFIN IZ
SUBJECT: ASSET TRANSFER: MINFIN AND EMIN AGREE WAY FORWARD

Classified By: CETI -- Amb. C Ries, Reason EO 12958 1.5 (b,d)

¶1. (C) Summary: Ambassador Ries met on March 27 with Finance Minister Byan Jabr and MoF Advisor Azez Jafar at Adnaan Palace in Baghdad. A wide range of topics were covered, with particular emphasis on the issue of transferring the substantial assets built by the U.S. in Iraq. Jabr resisted EMIN's suggestion that the GOI accept a single transfer of all remaining USG owned assets. The two agreed that Treasury Attache and ITAO Chief Financial Officer will work with MoF counterpart to draft a MOU to guide GOI ministries in accepting these assets. Treasury Attache Smith and Treasury officer el-Quolaq accompanied the Ambassador.

Extent of the Problem

¶2. (C) EMIN Ambassador Ries, accompanied by Treasury Attache Smith and Treasury officer al-Quolaq met March 27 with Minister of Finance Byan Jabr and MoF Advisor Azez Jafar to discuss the transfer of USG built and owned assets to the Iraqi government. EMIN handed the Minister and Azez, notebooks outlining the scope of this issue, including project summaries broken down by spending unit. Approximately 1,589 projects representing $6.1 billion dollars of IRRF capital expenditure were available for transfer to the GoI. Of these, about 1048 projects had been successfully transferred, either by unilateral transfer or by MOU which could be signed by a central government or local GoI official. However the process has stalled, and 541 projects, with investment totaling $3.8 billion, still needed to be transferred. EMIN told Jabr that a second SIGIR report would be coming out in the near future criticizing the slight progress that had been made since the July 25, 2007 SIGIR report. The second report could be released prior to the upcoming Congressional testimony, politicizing the issue and providing ammunition to those portraying the GoI as uncooperative.

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Mutual Agreement on a Way Forward
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¶3. (C) EMIN asked whether Jabr would continue his policy of having the ministries and provinces take responsibility for accepting assets from the USG, or, given the substantial amount of work that remained to be done, whether he might be open to a "universal transfer" of all remaining assets under a umbrella agreement signed by Ambassador Crocker and Prime Minister Maliki. Jabr replied that he was opposed to a "universal transfer," but he understood the need to transfer these assets -- whatever their condition -- from the USG to the GoI. Jabr assured EMIN that he would put the weight of his office behind the effort and work to facilitate the process, but ultimately the PM needed to drive this effort forward.

¶4. (C) After discussing, EMIN and Minister Jabr agreed on a way forward. Jabr will assign the MoF inspector General Dhia the task of energizing the asset transfer process. EMIN will assign the Treasury Attache and Steve Hill, ITAO Chief Financial Officer, to work the USG side of the process. Jabr emphasized that Dhia is part of the leadership of the association of ministerial inspectors general; Jabr believes this will facilitate his interaction with the finance sections of the ministries involved.

¶5. (C) EMIN proposed drafting a MoU, to be agreed between the USM-I and the MoF, which would define the objectives of the exercise and outline the process whereby ministries would agree to take formal possession of the USG-funded assets. This process could be extended to other USG funded programs by mutual consent. Jabr pointed out the MoF could influence this process, but endorsement from the Prime Minister was crucial. Having PM Maliki endorse the MoU and circulate it throughout GoI ministries and the provinces could do much to strengthen the MoF's hand, gaining cooperation from other parts of the government.

¶6. (C) EMIN and Minister Jabr discussed issues related to the transfer of incomplete projects and those not operational due to inferior design, materials, or workmanship. They agreed that the condition of such projects would be noted by the ministry or province assuming the project, and they would be accepted by the GOI, "as is." Decisions to complete unfinished projects or rectify shortcomings of deficient projects would be the responsibility of the accepting ministry or province. Funds needed to operate and maintain newly-accepted projects would be sourced from the relevant spending unit, as would any funds necessary to rehabilitate projects and make them operational. They briefly discussed

the prospect of MoF making additional funds available to relevant spending units to help defray such costs, but Jabr declined, contending that no ministry or province was capable of fully spending its current budget. (Comment: While this statement is likely true from a capital funding perspective, lack of operating funds may be a significant factor in restraining spending units from assuming responsibility for completed projects -- particularly those requiring expensive inputs, such as labor, electricity, or fuel. We will explore further. End Comment.)

¶7. (C) Treasury Attache agreed to write a first draft of the MoU in both Arabic and English. He and the ITAO Controller will then meet with the MoF IG to agree the text. Once agreed, Minister Jabr and Ambassador Crocker will separately approach PM Maliki to secure his support for this process and obtain a cover letter for the MoU which can be circulated to the appropriate ministries and provinces. At the same time, Treasury Attache, ITAO Controller, and the MoF IG will begin meeting with the relevant ministries to begin the process of obtaining their sign-off on asset transfer documentation.

Background

¶8. (U) The agreement with Jabr on a way forward is an important step toward resolving a long-standing issue. July 25, 2007, the Special Inspector General for Iraq Reconstruction (SIGIR) published a report entitled "Transferring Iraqi Relief and Reconstruction Fund Capital Projects to the Government of Iraq," which detailed a number of issues in connection with the transfer of capital assets built with USG funds under the Coalition Provisional Authority (CPA) and successor organizations (i.e., IRMO, ITAO, etc.). The report was critical of the MoF, generally, and Minister Jabr, specifically, for their roles in changing GoI procedures to obstruct what had been a regular process of transferring ownership of IRRF-funded assets from the USG and its agencies to the GoI.

¶9. (U) Prior to Jabr assuming the Finance Minister position, these asset transfers were done by the MoF on behalf of the receiving spending units (i.e., ministries and provinces). However, Jabr implemented a new policy that required each ministry to negotiate the terms of asset transfers. For example, he believed that the Ministry of Health was better positioned than the MoF to make a judgment on weather to accept responsibility for a U.S.-built health clinic, and if so, the terms that would govern such a transfer. This resulted in a pronounced slowdown in asset transfers. Further confusing the situation, the SIGIR report made no distinction between operational transfer and formal transfer of ownership. There were cases in which a GoI or provincial authority assumed responsibility for operating an asset built with USG funds without formal transfer of ownership.

¶10. (SBU) There are valid reasons why the Iraqis do not always uncritically accept these asset transfers. Ministerial DGs in the provinces complain that they did not commission these projects, and did not determine their specifications, so are not prepared to accept responsibility for their operations. This applies even to cases where the original project was commissioned by the CPA and the DG's predecessor was part of the project approval process. Another reason is that Iraqi government officials are distrustful of the whole process. Availability of resources to maintain and operate these facilities also enters the equation. Some Iraqi officials who may be inclined to accept these transfers hold back because they lack the budgetary resources to maintain and operate these facilities. (Note: This requires relatively scarce operating funds, as opposed to the more plentiful capital funds.)

¶11. (SBU) The MoF has played a delaying game in these exchanges by not making resources available. Instead it encouraged ministries and provinces to use their own budgets for operational expenses. However, recognizing the difficulty this creates, Minister Jabr told us that he will make a limited amount of funds available to help finance ministries and provinces to take on these projects, at least until the next annual budget cycle comes around.

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